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CRISP ENTERPRISES, INC.

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
SOUTHERN DIVISION**

CRISP ENTERPRISES, INC. dba C2
REPROGRAPHICS, a California
corporation,

Plaintiff,

vs.

GOLDEN EAGLE INSURANCE
COMPANY, a Massachusetts corporation,

Defendant.

Case No.:

**COMPLAINT FOR DECLARATORY
RELIEF ON DEFENDANT'S DUTY
TO DEFEND**

1 Plaintiff Crisp Enterprises, Inc., dba C2 Reprographics (“C2”) files this
 2 Complaint for declaratory relief against its general liability insurer, Defendant Golden
 3 Eagle Insurance Company (“Golden Eagle”) based on its failure and refusal to pay
 4 policy benefits to and defend C2 in the action styled *American Reprographics*
 5 *Company, LLC, v. Crisp Enterprises, Inc., dba C2 Reprographics*, Case No. 30-2013-
 6 00628051-CU-IP-CJC, Superior Court of California, Orange County, Central Justice
 7 Center (“ARC suit”).

8 In the *ARC suit*, the plaintiff American Reprographics Company, LLC (“ARC”)
 9 alleged, *inter alia*, that the defendant C2, together with co-defendant Bryan Stinson,
 10 engaged in unlawful and anti-competitive practices by using ARC’s confidential
 11 information to promote C2’s business and solicit new customers to C2. ARC sought
 12 damages from C2 for alleged conduct that was injurious to ARC because it caused
 13 ARC customers to prefer C2 to it. Golden Eagle was obligated to provide a defense
 14 for the *ARC suit* on behalf of C2 but refused to do so, causing damage to C2. The
 15 Complaint in the *ARC suit* alleged that C2 solicited ARC’s customers to give their
 16 business to C2. ARC’s witnesses explained that C2’s solicitations created a negative
 17 perception that ARC was a poor value and that C2 made misrepresentations that
 18 caused its customers to be dissatisfied with ARC.

19 The allegations about C2’s conduct are sufficient to establish a potential for
 20 coverage under the insurance policy’s “personal injury” offense (d) – “Oral or written
 21 publication . . . of material that . . . disparages a person’s or organization’s goods,
 22 products or services” - thus triggering Golden Eagle’s duty to defend under the policy.

23 THE PARTIES

24 1. Plaintiff C2 is a California corporation with its principal place of
 25 business in Costa Mesa, California. C2 is a citizen of California.

26 2. Defendant Golden Eagle is a Massachusetts corporation, with its
 27 principal place of business located in Johnstown, Ohio. C2 alleges that Golden Eagle
 28 is a citizen of Ohio.

1 11. The Policy provides general liability coverage for “personal and
2 advertising injury” caused by an offense committed during the policy period and
3 promises a defense of suits potentially falling within this coverage.

4 12. The Policy has a limit of \$1,000,000 for “personal injury” and
5 “advertising injury” that occurs during the policy period.

6 13. The Commercial General Liability Coverage Form of the Policy provides
7 in pertinent part:

8 **COVERAGE B PERSONAL AND ADVERTISING**
9 **INJURY LIABILITY**

10 **1. Insuring Agreement**

11 a. We will pay those sums that the insured becomes
12 legally obligated to pay as damages because of
13 “personal and advertising injury” to which this
14 insurance applies. We will have the right and duty
15 to defend the insured against any “suit” seeking
16 those damages. . . .

17

18 b. This insurance applies to “personal and
19 advertising injury” caused by an offense arising
20 out of your business but only if the offense was
21 committed in the “coverage territory” during the
22 policy period. . . .

23

24 **SECTION V - DEFINITIONS**

25 1. “Advertisement” means a notice that is broadcast or
26 published to the general public or specific market
27 segments about your goods, products or services for the
28

purpose of attracting customers or supporters. . . .

. . . .

4. “Coverage territory” means:

a. The United States of America ...

. . . .

14. “Personal and advertising injury” means injury . . .

arising out of one or more of the following offenses. . . .

. . . .

d. Oral or written publication, in any manner, of material that . . . disparages a person’s or organization’s goods, products or services

14. The Policy also includes exclusions which state:

This insurance does not apply to “Personal and advertising injury”

a. Knowing Violation Of Rights Of Another

. . . . caused by or at the direction of the insured with the knowledge that the act would violate the rights of another and would inflict “personal and advertising injury”.

. . . .

e. Contractual Liability

. . . . for which the insured has assumed liability in a contract or agreement. . . .

f. Breach of Contract

. . . . arising out of a breach of contract. . . .

. . . .

i. Infringement Of Copyright, Patent, Trademark Or Trade Secret

1 arising out of the infringement of
 2 copyright, patent, trademark, trade secret or
 3 other intellectual property rights. . . .

4 **THE UNDERLYING ARC SUIT**

5 15. On February 1, 2013, ARC filed a Complaint in the Superior Court of
 6 California, Orange County, Central Justice Center, against C2 and Bryan Stinson, an
 7 individual. A copy of the *ARC suit* Complaint filed on February 1, 2013, is attached as
 8 **Exhibit “2.”** This Complaint alleged five causes of action and included one exhibit.

9 16. The *ARC* Complaint alleged a cause of action for “Interference with
 10 Prospective Economic Relations” (Count III against Stinson and C2). [Ex. 2]

11 17. The *ARC* Complaint alleged that a former *ARC* employee, Stinson, was
 12 hired by C2 and used “ARC Confidential Information . . . to contact and solicit *ARC*
 13 customers in order to induce them to cease their business with *ARC* and transfer it to .
 14 . . C2.” [Ex. 2, ¶¶9, 11] *ARC* alleges C2 used its information for C2’s benefit “for the
 15 purpose of expanding [C2’s] business at the expense of *ARC*.” [Ex. 2, ¶34] *ARC*
 16 alleges that C2’s actions were calculated to usurp *ARC*’s business and cause harm to
 17 *ARC* while benefitting itself. [Ex. 2, ¶13]

18 18. The *ARC* Complaint also alleges that C2 “must be precluded from
 19 continuing to use *ARC*’s Confidential Information to sell C2 services and products to
 20 *ARC* customers” [Ex. 2, ¶39] and that Stinson was “surreptitiously absconding with
 21 information related to *ARC*’s customer lists for the purpose of attaining an unfair
 22 competitive advantage.” [Ex. 2, ¶53]

23 19. The foregoing allegations in the *ARC* Complaint thereby contend that
 24 *ARC* lost customers as a consequence of C2’s interaction with *ARC*’s existing or
 25 prospective customers, and that C2 relied on *ARC*’s information in procuring them.
 26 These allegations lead to the reasonable inference that C2 communicated with *ARC*’s
 27 customers in a manner that led those customers to prefer C2 to *ARC*.

28 20. Implicit in these allegations, as clarified by deposition testimony made

1 known to Golden Eagle before it confirmed its refusal to defend C2, is ARC's claim
2 that C2 used ARC's information to communicate with ARC's customers in a manner
3 that enhanced C2's business while diminishing ARC, leading ARC to appear a less
4 viable business partner and thereby disparaging it.

5 21. The ARC Complaint, therefore, alleges a potentially covered claim of
6 "disparagement" implicating potential coverage under offense (d) of Golden Eagle's
7 policy.

8 22. By this action, C2 seeks reimbursement for all costs of defense of the
9 *ARC suit* that were validated as reasonable by the trial court but not fully reimbursed
10 following a compromise of settlement of the *ARC suit* while the appeal was pending.

11 **TENDER OF THE ARC SUIT TO GOLDEN EAGLE**

12 23. C2 provided notice of the potential *ARC suit* to Golden Eagle on
13 November 20, 2012 (the "November notice"). The November notice to Golden Eagle
14 included pre-litigation letters from ARC threatening a lawsuit. The notice satisfied the
15 notice provisions of the Policy. A copy of the November notice is attached as **Exhibit**
16 **"3."**

17 24. On November 21, 2012, Golden Eagle acknowledged receipt of C2's
18 claim for coverage. A copy of the acknowledgement is attached as **Exhibit "4."**

19 25. After the filing of the *ARC suit* on February 1, 2013, Golden Eagle
20 denied coverage of the *ARC suit* by letter dated March 27, 2013. A copy of that denial
21 letter is attached as **Exhibit "5."**

22 26. C2 sought reconsideration of Golden Eagle's denial by letter dated March
23 18, 2014, and also informed it of its obligations to defend C2 from ARC's allegations
24 of disparagement. A copy of the letter is attached as **Exhibit "6."**

25 27. C2 provided further information for use by Golden Eagle in its
26 reconsideration by letter dated April 1, 2014. A copy of the letter is attached as
27 **Exhibit "7."**

28 28. Golden Eagle again denied coverage of the *ARC suit* by letter dated April

1 18, 2014. A copy of that denial letter is attached as **Exhibit “8.”**

2 29. In refusing to find potential coverage for “disparagement” under offense
3 (d), the most recent denial letter relied upon Golden Eagle’s contention that there were
4 no false statements about ARC alleged to have been made by C2 in the *ARC suit*, and
5 that coverage exclusions for the “knowing violation of rights of another,” “contractual
6 liability,” “breach of contract” and “infringement of intellectual property” barred any
7 defense to ARC’s allegations. **[Ex. 8, p. 3]**

8 30. Golden Eagle offered no factual support to explain why these exclusions
9 were applicable to bar potential coverage for the potentially covered claims of
10 “disparagement” despite applicable case authority requiring that it specify the factual
11 basis for such claims with sufficient particularity that C2 would be apprised of the
12 basis for its denial. Golden Eagle also ignored pertinent case authority that clarified
13 that tortious interference claims implicated coverage for claims of implicit
14 disparagement like that asserted here as that tort is but a remedy for underlying
15 tortious acts which must be factually developed. Numerous coverage decisions have
16 readily concluded that claims for “disparagement” are nested under asserted liability
17 for tortious interference.

18 31. Golden Eagle’s denial letter, however, conceded that C2 was “alleged to
19 have falsely associated [itself] with ARC” and that C2 allegedly attempted “to solicit
20 new business from ARC’s customers” and “[i]n doing so, C2 and Stinson allegedly
21 associated themselves with ARC in a purported attempt to acquire value from ARC’s
22 ‘high quality brand’ . . . to ‘steer’ customers to [C2’s] product.” **[Ex. 8, pp. 3-4]**

23 32. Golden Eagle had ample opportunity to evaluate the deposition testimony
24 set forth in the depositions of ARC’s executives evidencing allegations of
25 disparagement therein before affirming its self-aggrandizing conclusion that there was
26 no duty to defend for claims of implicit disparagement.

27 33. Golden Eagle’s selective reference to only some of the deposition
28 testimony in its denial letter is incomplete and failed to ensure that Golden Eagle has

1 eliminated any possibility of a defense “in all possible worlds,” as required by
 2 applicable California coverage law.

3 **ALLEGATIONS OF IMPLICIT DISPARAGEMENT ESTABLISH A**
 4 **POTENTIAL FOR COVERAGE UNDER OFFENSE (d)**

5 **A Three-Element Test Applies to This Offense**

6 34. The Policy defines “personal and advertising injury” as having three
 7 elements relevant here: (1) “injury . . . arising out of”; (2) “oral or written publication,
 8 in any manner, of material”; (3) “that. . . . disparages a person’s or organization’s
 9 goods, products or services.”

10 35. Each of the three elements described in the preceding paragraph are
 11 potentially met by the allegations of the ARC Complaint, particularly claims that: (a)
 12 C2’s alleged conduct was the cause of injury to ARC; (b) publication of material that
 13 adversely impacted ARC’s reputation; and (c) C2’s alleged conduct implicitly
 14 disparaged ARC by claiming equivalence, if not superior performance when
 15 communicating with ARC customers to induce them to choose ARC over C2, thereby
 16 triggering Golden Eagle’s duty to defend C2.

17 **Element One Is Met: “Injury Arising Out Of” Offense (d)**

18 36. The Policy defines “personal and advertising injury” as any “injury . . .
 19 arising out of” a listed *offense*.

20 37. “Arising out of,” as used in the definition of “personal and advertising
 21 injury,” is undefined in the Policy and is a term of much broader significance than
 22 “caused by.” The term “arising out of” means “originating from,” “having its origin
 23 in,” “growing out of,” “flowing from,” “incident to,” or “having connection with.”

24 38. The “injury arising out of” element is met in the ARC Complaint by the
 25 allegation that C2’s actions were “calculated to usurp ARC’s business relationships
 26 with its customers, and to thereby both cause severe monetary harm to ARC while
 27 financially benefitting” itself. [Ex. 2, ¶13]

28 39. Therefore the injury alleged in the underlying case potentially “arises out

1 of” offense (d).

2 **Element Two Is Met: “Oral or Written Publication of Material”**

3 40. The term “publication” is undefined in the Policy. “Publication” is
4 generally defined as “the act of bringing before the public” or an “announcement.”
5 The word “announce” is defined as “to make known . . .” or “to state; declare.” An
6 allegation of “publication,” as defined, requires only one recipient of the
7 “announcement” to exist.

8 41. The ARC Complaint alleges that the defendants used “ARC Confidential
9 Information . . . to contact and solicit ARC customers in order to induce them to cease
10 their business with ARC and transfer it to . . . C2.” [Ex. 2, ¶11] ARC’s complaint
11 further contended that C2 sent out “solicitations for business to ARC’s customers” . . .
12 [Ex. 2, ¶12]

13 42. “Contact” is defined as “to communicate with.” “Solicit” is defined as “to
14 seek to influence or incite to action. . . .”

15 43. The ARC Complaint further alleges the “disclosing” of information for
16 the benefit of C2. [Ex. 2, ¶25] “Disclose” generally means “to make known.” It is
17 reasonable to infer from ARC’s allegation of “disclosing” information its contention
18 that C2 made such information known through the communication of words to at least
19 one individual.

20 44. The foregoing allegations of “contact and solicit” and of “disclosing”
21 information, in the ARC Complaint, necessarily imply that C2 made a “publication” to
22 at least one ARC customer. Golden Eagle’s denial letter does not dispute this
23 contention.

24 45. During the *ARC suit*, testimony was obtained from several ARC
25 executives including Ross Banks and John Toth. Transcripts of the pertinent parts of
26 their testimony were supplied to Golden Eagle in C2’s reconsideration letter of March
27 18, 2014. [Ex. 6] The Toth testimony, although initially marked confidential pursuant
28 to the protective order in the *ARC suit*, is no longer confidential pursuant to written

1 agreement between the parties.

2 46. When asked if C2 had done anything to change the perception of ARC
3 customers about ARC's products and services, Mr. Toth testified that C2 "sent out
4 letters that associate themselves with ARC" and that C2 had sent "201" such letters
5 using ARC's "customer list." Mr. Toth's response expands upon the ARC Complaint's
6 allegations by clarifying that ARC alleged C2's communication of information to
7 more than two hundred individuals. Thus, ARC necessarily contended that C2
8 published information, or "misinformation," to ARC customers.

9 47. As C2 "published" material (which C2 contends potentially disparaged
10 ARC) by broadly disseminating it as part of C2's marketing activities and through
11 communicating negative comparative information to numerous ARC customers,
12 ARC's allegations that there were multiple contacts of customers by C2 in its
13 complaint and supporting testimony evidence that the element of an "oral or written
14 publication" was met by the claims asserted in the ARC Complaint.

15 **Element Three Is Met: "Disparages a Person's or Organization's Goods,
16 Products or Services"**

17 **Definition of "Disparagement"**

18 48. "Disparagement" is generally defined as "statements about a competitor's
19 goods that are untrue or misleading, or that are made to influence potential purchasers
20 not to buy from that competitor." It includes statements about a competitor that
21 suggest "equivalence," as well as "superiority," where they give rise to negative
22 comparative inferences. Several California courts have acknowledged implicit
23 disparagement arises where the comparison of features between competitors' products
24 or services is "an 'important differentiator' between two competing products [and
25 services] even though some competitors offered products with those exact features."

26 **Disparagement by Inference of Claimed Product or Service Equivalence**

27 49. Toth testified that C2 "sent out letters that associate themselves with
28 ARC...." He also confirmed that C2's obtaining the customer list and sending out

1 letters to customers on the list was an attempt to acquire value from the ARC brand
2 and was a misuse of the brand.

3 50. During his deposition, Toth accused C2 of “trading on our name.” Toth
4 questioned Stinson’s references to ARC because they denigrated ARC by leading
5 customers to believe that ARC’s quality was comparable to C2 when it, in fact, was
6 much higher quality. Toth stated that “[W]e work hard to deliver a high quality
7 service, great value. And they’re associating themselves with us and they’re implying
8 that they’re bringing that quality to C2. And I resent that, because they’re not.”

9 **Disparagement by Inference of Claimed Product or Service Superiority**

10 51. The ARC Complaint alleged that a former ARC employee, Stinson, was
11 hired by C2 and used “ARC Confidential Information . . . to contact and solicit ARC
12 customers in order to induce them to cease their business with ARC and transfer it to .
13 . . C2.” [Ex. 2, ¶¶9, 11] ARC alleges C2 used its information for C2’s benefit “for the
14 purpose of expanding [C2’s] business at the expense of ARC.” [Ex. 2, ¶34] ARC
15 alleges that C2’s actions were calculated to usurp ARC’s business and cause harm to
16 ARC while benefitting itself. [Ex. 2, ¶13]

17 52. Toth testified that if a customer were to transfer its business from ARC to
18 a competitor it would be because of a perception that the competitor offers a better
19 solution and value and that ARC’s service is not what they want. Toth then accused
20 C2 of denigrating ARC by creating just such a perception that C2 offers a better value
21 than ARC. When asked if C2 had done anything to change the perception of ARC
22 customers such that they believe that C2 offers a better value of some sort than ARC,
23 Toth stated “Yes” and explained that C2 stole customer lists, and sent out over 200
24 letters associating themselves with ARC.

25 53. Banks’ deposition testimony directly referenced disparaging
26 misrepresentations about ARC by C2. When asked if Stinson did something to cause a
27 customer to be upset with ARC but be happy with C2 and provide their business to
28 C2, Banks replied “Yes.”

1 54. When asked “does that have something to do with believing that there
2 was misinformation given to the customer with respect to ARC in order to entice the
3 customer to provide business to C2,” Banks confirmed “Yes.”

4 55. When asked what information Stinson or C2 provided to the customers,
5 Banks answered “I do not know the particulars. They were just dissatisfied and felt
6 misrepresented of the products and services that they were committed to [with ARC].”

7 56. Banks claimed that Stinson was doing something to sabotage the
8 relationship between ARC and its customer, Clerkin & Clerkin, and that ARC
9 believed he could be doing it with other customers as well.

10 57. Banks alleged that as a result of this activity, one of ARC’s customers
11 believed that ARC “did not meet their expectations.” Banks stated that his
12 understanding was Stinson’s representations were “not a representation of what [the
13 customer] expected and within the confines of what we would normally provide a
14 client.”

15 58. Mr. Stinson as an employee of C2, therefore, allegedly impugned ARC’s
16 reputation when comparing its services to those of C2. This denigration of ARC in the
17 mind of both existing and potential customers of ARC in favor of C2 evidences
18 “disparagement” within the meaning of offense (d) in the Policy.

19 59. The foregoing testimony highlighted the similarity of the competitor’s
20 products and services offered through the same sales representations that ARC
21 customers had previously enjoyed albeit at more competitive pricing by C2.

22 60. The fact allegations in the ARC Complaint, as clarified by deposition
23 testimony, reveal that ARC claimed its products/services were being impugned by its
24 prior employee, Stinson, in soliciting his prior customers when working for C2.

25 61. The inferences properly drawn from the fact allegations of the ARC
26 Complaint as clarified by deposition testimony evidence disparagement because: (1)
27 ARC’s products and services are directly compared with C2’s products in an
28 unfavorable manner; (2) customers are encouraged to prefer C2 products to ARC by

1 what ARC characterized as misrepresentations regarding services of ARC; and (3)
2 doubts are cast into the customers' minds about ARC's suitability as a source of
3 services for precisely what Stinson was offering when he was previously affiliated
4 with ARC, therefore, trading upon the credibility he developed as an ARC employee
5 and of the good will of ARC to its disadvantage and to the benefit of C2.

6 62. The fact that the *ARC Action* does not specifically allege a disparagement
7 cause of action is of no moment in finding potential coverage for *implied*
8 disparagement

9 63. To the extent there is any *factual* dispute about what occurred that would
10 evidence disparagement, that possibility alone triggers a duty to defend.

11 64. Golden Eagle fails to acknowledge that where a claimant such as ARC
12 sought to avoid articulating with more specificity, facts supportive of its general
13 theories of disparaging conduct as a form of subterfuge motivated by ARC's
14 confrontation of insurance for C2 in prior litigation. The presumption arises that the
15 fact allegations evidencing potential covered claims, here for "disparagement," might
16 be broadly construed in the insured's favor as they more readily evidence a duty to
17 defend.

18 **NO EXCLUSIONS BAR COVERAGE**

19 65. Golden Eagle is relieved of its duty to defend if and only if the
20 allegations in the *ARC suit* allege injury that is not covered under the Policy.

21 66. The pertinent Policy language requires the allegation of a "[p]ersonal and
22 advertising injury" for any exclusion to apply. "Personal and advertising injury" is
23 defined in the Policy as including one of the operative offenses. Here, that offense is
24 "disparagement." The only conduct to which the Policy exclusions can possibly apply
25 are those allegations as clarified by extrinsic evidence known to Golden Eagle
26 Insurance Company.

27 67. Courts have found that if a claimant's allegation is not within the scope
28 of coverage, the exclusions cannot apply to it. "Before even considering exclusions, a

1 court must examine the coverage provisions to determine whether a claim falls within
2 the policy terms.”

3 68. Golden Eagle has the burden of showing that the allegations cast the ARC
4 Complaint solely and entirely within the policy exclusions because its duty to defend
5 is triggered by the mere *possibility* of a covered liability. Golden Eagle cannot
6 conclusively disprove the potential for coverage by merely asserting exclusions. It
7 must show that each potential ground for liability fits conclusively within an
8 exclusion.

9 69. Exclusions are construed narrowly and must be proven by the insurer. If
10 coverage is in doubt, Golden Eagle is obligated to defend C2.

11 70. Golden Eagle’s denial letter contended that the Policy’s exclusions for
12 “knowing violation of rights of another,” “contractual liability,” “breach of contract,”
13 and “intellectual property” preclude its duty to defend C2. [Ex. 8, p. 5]

14 **Knowing Personal and Advertising Injury**

15 71. Proof of disparagement based on publication of material that denigrates
16 C2’s competitor need not be proven to be intentional to establish liability, much less
17 undertaken knowingly with an intent to injure the party disparaged so that such
18 allegations here are not sufficient to evidence “knowing ‘personal or advertising’”
19 injury. Thus, the “knowing violation” exclusion is inapplicable.

20 **Contractual Liability**

21 72. The ARC *suit* claims revealing “disparagement” do not allege that C2
22 “has assumed liability in a contract or agreement.” Further, the exclusion for
23 “contractual liability” includes an exception as “to liability for damages that the
24 insured would have in the absence of the contract or agreement.” Thus, even if it was
25 alleged that C2 had assumed contractual liability, an exception to the exclusion would
26 exist because C2 would be independently liable for disparagement in the absence of
27 such a contract.

28 ///

Breach of Contract

73. Similarly, fact allegations evidencing potential “disparagement” do not depend for proof of liability on the existence, or breach, of any contract. ARC’s allegations of disparagement would independently exist regardless of whether there was any breach of contract by C2 or Stinson. The “breach of contract” exclusion is inapplicable.

Intellectual Property

74. The alleged offense of disparagement is not a claim “arising out of the infringement of copyright, patent, trademark, trade secret or other intellectual property rights.” Rather, it asserts a publication by C2 that harms the reputation of ARC, as a competitor, in a manner wholly independent of ARC’s intellectual property rights. The “intellectual property” exclusion is inapplicable.

FIRST CAUSE OF ACTION

Declaratory Relief – Duty to Defend

75. C2 incorporates the allegations in the above paragraphs of this Complaint as though fully alleged herein.

76. A valid contract existed between C2 and Golden Eagle, namely the Policy.

77. C2 fully performed all of the obligations and conditions to be performed by it under the Policy or has been excused from performing same as a result of Golden Eagle’s breach of its duty to defend.

78. By selling the Policy Golden Eagle agreed to provide a defense to its insureds in suits seeking damages for “personal and advertising injury” offenses as defined in its Policy.

79. The underlying *ARC suit* Complaint alleges facts potentially implicating coverage under the Policy as “personal and advertising injury” thereby triggering Golden Eagle’s obligation to defend C2 in the *ARC suit*.

80. Golden Eagle wrongfully denied a defense, denying Policy benefits to

1 C2.

2 81. An actual bona fide controversy exists between C2, on the one hand, and
3 Golden Eagle, on the other hand, that requires judicial declaration by this Court of the
4 parties' rights and duties regarding Golden Eagle's duty to defend C2 in the *ARC suit*,
5 and a determination of the amount of defense expenses owed by Golden Eagle.

6 **PRAYER FOR RELIEF**

7 WHEREFORE, Plaintiff C2 prays for judgment against Defendant Golden
8 Eagle as follows:

9 1. A judicial declaration that Golden Eagle had a duty to defend C2 in the
10 *ARC suit* under the Policy it issued to C2;

11 2. A determination and award of general damages consisting of all
12 reasonable defense expenses incurred by C2 in defense of the *ARC suit*;

13 3. Award of Pre-judgment interest from the date of each defense invoice at
14 the statutory rate of 10% per annum;

15 4. Award of costs of suit herein; and

16 5. Other and further relief as this Court may deem just and proper.

17
18 Dated: December 2, 2015

GAUNTLETT & ASSOCIATES

19
20 By: s/David A. Gauntlett

21 David A. Gauntlett
James A. Lowe

22 Attorneys for Plaintiff
23 CRISP ENTERPRISES, INC.
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EXHIBITS TO COMPLAINT

- EXHIBIT “1”** -- Commercial General Liability Policy No. CBP 8651490 issued by Golden Eagle for the period May 10, 2009 to May 10, 2013
- EXHIBIT “2”** -- ARC’s original Complaint and Exhibit filed in underlying action on February 1, 2013
- EXHIBIT “3”** -- C2’s email to its insurance broker instructing him to tender the ARC claim and the broker’s email tendering the ARC claim to Golden Eagle both dated November 20, 2012
- EXHIBIT “4”** -- Golden Eagle’s acknowledgement of claim dated November 21, 2012
- EXHIBIT “5”** -- Golden Eagle’s coverage denial letter of March 27, 2013
- EXHIBIT “6”** -- C2’s letter of March 18, 2014 seeking Golden Eagle’s reconsideration of coverage denial (without attached exhibits)
- EXHIBIT “7”** -- C2’s letter of April 1, 2014 to Golden Eagle updating reasons for reconsideration of coverage denial
- EXHIBIT “8”** -- Golden Eagle’s coverage denial letter of April 18, 2014